

Amendment No. 1 to SB0435

McNally
Signature of Sponsor

AMEND Senate Bill No. 435

House Bill No. 264*

by deleting all language after the caption and substituting instead the following:

WHEREAS, Tennessee currently ranks in the top five states for cancer deaths; and

WHEREAS, Tennessee is one of only thirteen states with a clinical proton therapy center; and

WHEREAS, the Tennessee Health Services and Development Agency (THSDA) has recognized the clinical need and benefit of proton therapy, and the THSDA board has unanimously approved and granted two certificates of need for the development of the Proton Therapy Center in Knoxville and the St. Jude Red Frog Events Proton Therapy Center in Memphis; and

WHEREAS, Tennessee has the opportunity to become a regional and national leader in cancer care and treatment with proton therapy centers for both pediatric and adult cancers; and

WHEREAS, Medicare reimburses for proton therapy for a wide range of cancer diagnoses in all fifty states; and

WHEREAS, most Tennessee citizens not covered by the Medicare program are currently denied insurance coverage for proton therapy; and

WHEREAS, adequate reimbursement for proton therapy by commercial insurers and self-insurers is essential to assure the availability of all cancer treatment modalities to all of the citizens of Tennessee and to assure the financial viability of both of the Tennessee non-profit proton therapy centers; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

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House Bill No. 264*

SECTION 1. Tennessee Code Annotated, Title 56, Chapter 7, Part 23, is amended by adding the following new section:

56-7-2369.

(a) As used in this section, “proton therapy” means the advanced form of cancer treatment that utilizes charged particles to induce tumor cell death.

(b) Every individual or group health insurance policy providing coverage on an expense-incurred basis, every policy or contract issued by a hospital or medical service corporation, every individual or group service contract issued by a health maintenance organization, and every self-insured group arrangement to the extent not preempted by federal law, which is delivered, issued for delivery, or renewed in this state on or after the date of enactment of this bill, and every existing health insurance policy, health plan, group arrangement or contract that does not specifically exclude coverage for proton therapy, shall provide coverage for all physician-prescribed proton therapy services and associated diagnostic and treatment planning modalities required to properly and effectively deliver proton therapy, as an in-network service for the treatment of any Medicare-reimbursed indications and other physician-prescribed indications including, but not limited to, breast cancer, brain tumors, pediatric cancer, prostate cancer, lung cancer, bladder cancer, cancer of the pancreas and other upper abdominal sites, spinal cord tumors, head and neck cancer, adrenal tumors and pituitary tumors.

(c) The indications listed in subsection (b) for which coverage is required shall be covered and reimbursed at a rate that is:

(1) A reasonable multiple of the current payment rate established for that indication by the Medicare Hospital Outpatient Prospective Payment System; and

(2) Comparable to commercial reimbursement rates for proton therapy services at existing proton therapy centers.

(d) Future contractual action by the insurer, health maintenance organization or plan administrator against or regarding either the prescribing physician or the independent reviewing physician shall not be based on the physician's participation in proton therapy.

(e) The benefits required by this section shall be subject to the annual deductible and co-insurance established for all other similar benefits such as radiation therapy within the policy or contract of insurance; provided, the annual deductible and co-insurance for the benefits required by this section are no greater than the annual deductible and co-insurance established for all other similar benefits within that policy or contract of insurance.

(f) This section shall not apply to insurance coverage providing benefits for the following:

- (1) Hospital confinement indemnity;
- (2) Disability income;
- (3) Accident-only;
- (4) Long-term care;
- (5) Medicare supplement;
- (6) Limited benefit health;
- (7) Specified disease indemnity;
- (8) Sickness or bodily injury or death by accident; or
- (9) Other limited benefit policies.

(g) This section shall not apply to:

(1) TennCare or any successor program provided for in title 71, chapter 5;

(2) State, local education and local government health coverage through the state group insurance program; and

(3) Non-grandfathered health plans that are required to include essential health benefits under the federal Patient Protection and Affordable Care Act, P.L. 111-148, as amended.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to health insurance policies or contracts issued on or after the effective date of this act, as well as existing health insurance policies, health plans, group arrangements or contracts that do not specifically exclude coverage for proton therapy.